Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
	)	WC Docket No. 08-4
Hawaiian Telcom, Inc.'s	)	
Petition for Waiver of High-Cost Universal	)	
Service Support Rules	)	

COMMENTS OF EMBARQ

On December 31, 2007 Hawaiian Telcom, Inc. ("HT") filed a petition for waiver of Sections 54.309 and 54.313(d)(vi) of the Commission's rules regarding the calculation of high cost universal service support. Specifically, HT requested a five-year waiver of Section 54.309 which would allow it to receive high-cost model support on a wire-center-by-wire-center basis, rather than a statewide basis. HT also requested a one-time waiver of Section 54.313(d)(vi) which would allow the company to receive such high-cost model support immediately upon grant of its waiver request. HT estimates that grant of its waiver request would produce support of approximately $6 million per year.

In its petition HT argues that the practice of using statewide average costs, as required by Section 54.309, "frustrates the purposes of high-cost support" because it fails to fully account for the challenges faced by HT. The petition goes on to state that "Indeed, under this methodology HT receives no HCMS funding, despite the high costs of service in the vast majority of Hawaii, the vital need for support to modernize HT's telecommunications infrastructure, and the increasing service demands of HT's customers." In other words, HT has a legitimate and vital need for support but this need is masked by the simple mechanics of how support is currently calculated under the existing system. Embarq, as the incumbent provider in some of the nation's highest-cost rural regions, could not agree more or sympathize more because the same situation exists in many portions of the country, including much of Embarq's serving territory: Embarq has the same legitimate and vital need for support that HT has but—just like HT—this need is masked by the mechanics of how support is calculated under the current system. And while HT faces *one* set of unique circumstances that drives its high costs (such as volcanoes), other companies face their own set of unique, high-cost circumstances (in Embarq's case, for example, the Everglades) that have the effect of creating exactly the same challenge.

STATEWIDE AVERAGE COSTS & STUDY AREA AVERAGE COSTS

In its petition HT argues that its customers are "highly dispersed and difficult to serve" with 91% of Hawaii's land mass housing only 28% of its population. It argues that as a result of this population dispersion, HT faces many of the same challenges faced by rural carriers even though HT is non-rural and therefore ineligible for funding from the rural high-cost mechanism. Embarq submits that the problems identified in this case are not a function of the non-rural or rural mechanisms; they are a function of the practice of geographic averaging which is problematic in *both* mechanisms. Under the status quo, non-rural costs are averaged across all non-rural study areas in a state. If there is one non-rural study area in a state—such as the case in Hawaii—the statewide average and the company's study area average reflect exactly the same geographic area. And the use of *either* a statewide average or a study area average masks the legitimate need for support that HT outlines in its petition.

As HT points out, nearly 3/4ths of its customer base is highly-concentrated in less than 10% of the land area it serves. The use of *either* a statewide average cost or study area average cost assumes that revenues earned in this high-density, low-cost area are available to offset the costs of serving the more remote areas. This assumption is simply no longer valid. In fact the Federal-State Joint Board on Universal Service recently noted in its November 2007 Recommended Decision that, in a competitive marketplace, this is no longer a reasonable assumption:

> [T]he current high-cost universal service mechanisms are dated and need to be modernized in several ways. New entrants often compete only in densely populated areas that have relatively low costs. This makes it much more difficult for incumbent LECs to charge the same rates in both their low-cost densely populated areas and their higher cost, more remote areas. None of the existing support mechanisms adequately recognizes this phenomenon...
>
> *Joint Board Recommended Decision,* ¶*22*

HT's proposed solution is to have its need for support calculated at a geographic level that is more granular than an entire state (or study area). Specifically, they propose to have support calculated on a wire-center-by-wire-center basis. *This increased granularity is precisely the same approach to universal service reform that Embarq has been advocating over the past many months.*[1] By calculating support at a more granular level the Commission could ensure that the support produced by the federal mechanism would be truly sufficient, specific and predictable, which existing support is not and cannot be in a competitive marketplace.

A UNIQUE SITUATION?

The HT petition contains extensive discussions regarding the nature of the territory that the company serves. These discussions are intended to provide clear evidence that portions of the HT serving territory are indeed high-cost, and to provide colorful explanations as to the

[1] See, for example, Embarq presentation at Federal-State Joint Board *En Banc* Proceeding, February 20, 2007; Washington DC.

reasons why the areas are high cost. But while the Hawaii-specific cost-drivers may be unique to HT, the situation that they create—*the situation that HT seeks to remedy with this petition*—is not unique at all. If it was, then so too would be Embarq's challenge of providing service to a small number of customers spread across hundreds of square miles of Everglades swampland in our Florida territory. Or the challenge of providing service to approximately 80 households spread across 1200 square miles of the Cascade Mountains in our Crater Lake, Oregon exchange. In both of those instances Embarq receives no high-cost loop or switching support despite the exact same confluence of circumstances cited by HT on pages 4-5 of its petition: documented high-costs, a vital need for support, and increasing service demands of its customers.

COMPARISON OF NEED FOR SUPPORT

On page 24 of the HT petition the company argues that grant of the requested waivers would not provide a precedent for similar waiver requests because no other carriers "...face the combination of challenges faced by HT." Even if this point were true, the fact that HT's cost-drivers are unique does not suggest that HT deserves special treatment any more than any other company facing its own unique cost characteristics. HT has not demonstrated that these Hawaii-specific cost drivers translate to a greater *need* for support than any other company's unique cost drivers. In fact, the Commission's own data demonstrate exactly the opposite. The table below provides the forward-looking per-line costs of HT's five highest-cost wire centers, as calculated by the Commissions forward-looking model, and five high-cost wire centers from Embarq's Florida serving territory. They are calculated using the model's default inputs and default settings.

Hawaiian Telcom, Inc.			**Embarq-Florida, Inc.**	
Wire Center	Monthly Cost		Wire Center	Monthly Cost
ULPEHICO	$89.22		KNVLFLXA	$143.72
HNMUHICO	$71.01		EVRGFLXA	$120.80
MNLOHICO	$69.72		GLDLFLXA	$112.28
PAAUHICO	$67.68		STMKFLXA	$110.97
KLPUHICO	$63.31		PNLNFLXA	$103.00

As the table clearly shows, HT's "unique" circumstances do not translate into any greater need for support than the "unique" circumstances faced by Embarq in Florida. In fact, many of the factors that HT cites in its petition as causing high costs—exposure to salt water along the coastlines (petition page 8), hurricanes (petition page 10)—are not unique at all; they are the exact same conditions faced by Embarq and many other carriers that serve coastal areas.

It is equally important to note that the costs displayed in the table above <u>do</u> in fact reflect the issues raised by HT in its petition. The distances between islands, the submarine fiber, etc. (petition pages 6-7) all translate to higher-than-average costs but principally higher-than-average *transport* costs. The table below lists the transport costs, as calculated by the Commission's model, for the same HT wire centers along with the model's estimate for the nationwide average transport cost. These transport costs <u>are</u> included in the costs shown in the previous table.

Wire Center	**Monthly Transport Cost**	**Transport as % of Monthly Cost**
ULPEHICO	$21.90	24.5% (21.90/89.22)
HNMUHICO	$15.58	21.9% (15.58/71.01)
MNLOHICO	$26.56	38.0% (26.56/69.72)
PAAUHICO	$19.25	28.4% (19.25/67.68)
KLPUHICO	$15.95	25.2% (15.95/63.31)
Nationwide Average	$0.34	< 2% (0.34/≈22.00)

It is clear that the costs of transport for HT are significantly higher than the nationwide average. But it is also clear that these transport costs do not translate to a greater overall need for support than the need in many other areas, including the Embarq wire centers displayed on the first table.[2] Embarq sympathizes with the challenges faced by HT and agrees completely that the current system does not sufficiently support the provision of service in HT's higher-cost areas. But the "unique" cost-drivers that HT outlines in its petition do not translate to a unique *need* or a unique *situation* that warrants special treatment.

A SOLUTION TO A FUNDAMENTAL PROBLEM

The current federal high-cost mechanism is plagued by a fundamental problem: Certain geographic areas (HT's high-cost wire centers, high-cost wire centers served by Embarq and others) receive inadequate support while other geographic areas could in fact be said to receive too much support. "Too much" support is found in regions where multiple competitive ETCs each receive support dollars for serving the same exact area. The solution to this fundamental problem is not to grant waivers on a carrier-by-carrier basis; rather, the solution is to fundamentally reform the federal mechanism in such a way to re-distribute support dollars to where they are most needed. Embarq agrees with HT that adequately supporting its high-cost areas would serve the public interest. So too would adequately supporting the high-cost areas of numerous carriers whose need for support is masked by the current practice of using study-area or statewide averages; the very practice that HT cites in its petition as the source of its problems.

As the Commission proceeds with fundamental USF reform and the numerous proceedings before it, Embarq encourages the Commission to view HT's petition not as a unique challenge faced by a single company but as concrete evidence of this pervasive, fundamental flaw in the current system. By calculating the need for support more granularly for *all* carriers,

[2] Costs from the Commission's forward-looking model are used in this context for comparative and illustrative purposes only.

and by re-distributing support to high cost areas of *all* carriers that exhibit legitimate need (including the types of areas referenced by HT in its petition), it is possible to achieve the goals of sufficiency and specificity while controlling overall fund growth.

Respectfully submitted,

EMBARQ

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